

A.4

Designation Run Report

Mapes M DA, PC, PCompleteness, DReply on 07-22-21

Mapes, Michael 07-11-2019
Mapes, Michael 07-12-2019

Defendants' Affirmatives 00:19:38

Plaintiffs' Counters 00:13:05

Plaintiffs' Completeness 00:21:44

Defendants' Reply 00:05:02

Total Time 00:59:29



vMapes6ALL-Mapes M DA, PC, PCompleteness, DReply on 07-22-21

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17:24 - 17:25	Mapes, Michael 07-11-2019 (00:00:02) 17:24 Q. Good morning, Mr. Mapes. 17:25 A. Good morning.	vMapes6ALL.1
47:16 - 47:25	Mapes, Michael 07-11-2019 (00:00:18) 47:16 Q. And so according to this 47:17 profile, you worked for DEA for a little more 47:18 than 30 years in total, correct? 47:19 A. That's correct. 47:20 Q. From 1977 to 2007? 47:21 A. Yes. 47:22 Q. And you held a number of 47:23 positions over the course of your tenure at 47:24 DEA, correct? 47:25 A. Correct.	vMapes6ALL.2
48:1 - 48:2	Mapes, Michael 07-11-2019 (00:00:05) 48:1 Q. Were all of those positions in 48:2 the diversion side of DEA?	vMapes6ALL.3
48:4 - 48:5	Mapes, Michael 07-11-2019 (00:00:02) 48:4 THE WITNESS: They were all 48:5 related to the diversion program, yes.	vMapes6ALL.4
67:4 - 67:12	Mapes, Michael 07-11-2019 (00:00:52) 67:4 Q. And who were your clients in 67:5 the independent consulting business that you 67:6 had after leaving DEA, to the best that you 67:7 can recall? 67:8 A. AmerisourceBergen, HD Smith, 67:9 Meijer Company, M-e-i-j-e-r, Henry Schein, 67:10 Physicians Pharmaceutical Corporation. 67:11 There's others I just can't 67:12 recall this second.	vMapes6ALL.5
70:3 - 70:6	Mapes, Michael 07-11-2019 (00:00:22) 70:3 In 2005, who was the head of 70:4 the Office of Diversion Control? 70:5 A. I'm not certain. It could have 70:6 been one of a couple of different people.	vMapes6ALL.6
70:15 - 70:17	Mapes, Michael 07-11-2019 (00:00:04) 70:15 Q. Did Joe Rannazzisi take over 70:16 that role from Bill Walker? 70:17 A. Yes.	vMapes6ALL.7
70:21 - 70:25	Mapes, Michael 07-11-2019 (00:00:09)	vMapes6ALL.8

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	70:21 Q. Did you work with Joe	
	70:22 Rannazzisi in that time period?	
	70:23 A. I did.	
	70:24 Q. Did you report to him?	
	70:25 A. I did.	
79:3 - 79:11	Mapes, Michael 07-11-2019 (00:00:29)	vMapes6ALL.9
	79:3 Q. During your time at DEA, you	
	79:4 became familiar with the regulation regarding	
	79:5 the identification and reporting of	
	79:6 suspicious orders?	
	79:7 A. Yes.	
	79:8 Q. To your knowledge, has that	
	79:9 regulation changed since it was issued or	
	79:10 promulgated?	
	79:11 A. Not that I'm aware of.	
80:1 - 80:7	Mapes, Michael 07-11-2019 (00:00:17)	vMapes6ALL.10
	80:1 Q. So when we're talking about the	D640.1.1
	80:2 regulation regarding to the identification	
	80:3 and reporting of suspicious orders, which	
	80:4 section of this Exhibit 3 are we talking	
	80:5 about?	
	80:6 A. Suspicious orders ends in	
	80:7 1301.74(b).	
80:8 - 80:16	Mapes, Michael 07-11-2019 (00:00:21)	vMapes6ALL.11
	80:8 Q. And 1301.74(b) defines a	
	80:9 suspicious order to include orders of unusual	
	80:10 size, orders deviating substantially from a	
	80:11 normal pattern and orders of unusual	
	80:12 frequency, right?	
	80:13 A. Yes.	
	80:14 Q. Does the regulation explain to	
	80:15 a registrant how to identify an order of	
	80:16 unusual size?	
80:18 - 80:22	Mapes, Michael 07-11-2019 (00:00:06)	vMapes6ALL.12
	80:18 THE WITNESS: It does not.	
	80:19 QUESTIONS BY MS. MCCLURE:	
	80:20 Q. Does the regulation explain to	
	80:21 a registrant how to identify an order of	
	80:22 unusual frequency?	
80:24 - 80:24	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.13

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81:2 - 81:4	80:24 THE WITNESS: It does not. Mapes, Michael 07-11-2019 (00:00:08)	vMapes6ALL.14
81:6 - 81:11	81:2 Q. Does the regulation explain to 81:3 a registrant how to identify an order that 81:4 deviates substantially from a normal pattern? Mapes, Michael 07-11-2019 (00:00:16)	vMapes6ALL.15
81:12 - 82:1	81:6 THE WITNESS: It does not. 81:7 QUESTIONS BY MS. MCCLURE: 81:8 Q. Registrants are responsible for 81:9 designing their own suspicious order 81:10 monitoring systems; is that correct? 81:11 A. It is. Mapes, Michael 07-11-2019 (00:00:35)	clear vMapes6ALL.16
85:5 - 85:8	81:12 Q. Is a registrant to take into 81:13 account considerations that are unique to 81:14 them in designing such a system, for example, 81:15 their customer base? 81:16 A. Yes. 81:17 Q. So would one registrant 81:18 potentially have a different-looking or 81:19 different nature of a customer base than 81:20 another registrant? 81:21 A. Yes. 81:22 Q. Is it possible that those 81:23 registrants would then have designed 81:24 different suspicious order monitoring 81:25 systems? 82:1 A. It's possible. Mapes, Michael 07-11-2019 (00:00:10)	vMapes6ALL.17
85:11 - 85:11	85:5 In your experience, DEA affords 85:6 registrants the discretion to design a 85:7 suspicious order monitoring system that is 85:8 effective? Mapes, Michael 07-11-2019 (00:00:00)	vMapes6ALL.18
87:21 - 87:23	85:11 THE WITNESS: Yes. Mapes, Michael 07-11-2019 (00:00:09)	vMapes6ALL.19
88:2 - 88:2	87:21 Q. Do you agree that there -- that 87:22 the review of an order to determine whether 87:23 it is suspicious or not is a subjective one? Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.20

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90:25 - 91:10	<p>88:2 THE WITNESS: Yes.</p> <p>Mapes, Michael 07-11-2019 (00:00:39)</p> <p>90:25 Q. Does the regulation -- I'm</p> <p>91:1 looking back at Mapes Exhibit 3 -- define the</p> <p>91:2 form or format that a suspicious order report</p> <p>91:3 must take?</p> <p>91:4 A. It does not.</p> <p>91:5 Q. Does it say what information is</p> <p>91:6 supposed to be provided to DEA?</p> <p>91:7 A. No, it doesn't.</p> <p>91:8 Q. Does the regulation in Mapes</p> <p>91:9 Exhibit 3 say anything about whether a</p> <p>91:10 registrant can ship a suspicious order?</p>	<p>vMapes6ALL.21</p> <p>D640.1.1</p>
91:12 - 91:12	<p>Mapes, Michael 07-11-2019 (00:00:01)</p> <p>91:12 THE WITNESS: No, it doesn't.</p>	<p>vMapes6ALL.22</p>
91:14 - 91:17	<p>Mapes, Michael 07-11-2019 (00:00:11)</p> <p>91:14 Q. And this section of the</p> <p>91:15 regulation, 1301.74(b), it has not changed</p> <p>91:16 since 1971?</p> <p>91:17 A. I'm not aware of any changes.</p>	<p>vMapes6ALL.23</p> <p>clear</p>
91:18 - 92:12	<p>Mapes, Michael 07-11-2019 (00:00:57)</p> <p>91:18 Q. Are you familiar with excessive</p> <p>91:19 purchase reports?</p> <p>91:20 A. Yes.</p> <p>91:21 Q. What are they?</p> <p>91:22 A. Reports that are sent by</p> <p>91:23 wholesalers of purchases of controlled</p> <p>91:24 substances that they, after the fact, think</p> <p>91:25 may be excessive.</p> <p>92:1 Q. Was the submission of excessive</p> <p>92:2 purchase reports, in your experience,</p> <p>92:3 standard practice in the industry?</p> <p>92:4 A. It was.</p> <p>92:5 Q. Was there a particular time</p> <p>92:6 that you believe, in your experience, it was</p> <p>92:7 standard practice in the industry to submit</p> <p>92:8 those?</p> <p>92:9 A. From the time I started with</p> <p>92:10 DEA in 1977 until we had the meetings with</p> <p>92:11 the individual wholesalers, that was the --</p>	<p>vMapes6ALL.24</p>

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92:13 - 92:15	92:12 the standard practice, to submit those. Mapes, Michael 07-11-2019 (00:00:05)	vMapes6ALL.25
92:23 - 92:25	92:13 Q. And in your experience, DEA 92:14 reviewed those reports as compliant with the 92:15 Controlled Substances Act? Mapes, Michael 07-11-2019 (00:00:07)	vMapes6ALL.26
93:2 - 93:25	92:23 THE WITNESS: Yeah, I viewed 92:24 those as compliant with the regulation 92:25 for suspicious orders. Mapes, Michael 07-11-2019 (00:00:40)	vMapes6ALL.27
	93:2 Q. And in your experience of 93:3 conducting audits of distribution centers, 93:4 that was one of your roles as a diversion 93:5 investigator, right? 93:6 A. Yes. 93:7 Q. Conducting audits? 93:8 A. Yes. 93:9 Q. And as a group supervisor, you 93:10 would oversee diversion investigators who 93:11 were conducting audits? 93:12 A. That's correct. 93:13 Q. And that would include a review 93:14 of their suspicious order monitoring systems? 93:15 A. That's correct. 93:16 Q. Including the formats that they 93:17 were using to submit and how they were 93:18 identifying and reporting suspicious orders 93:19 to DEA? 93:20 A. Correct. 93:21 Q. And in the course of your role 93:22 as a diversion investigator and a group 93:23 supervisor, you accepted these excessive 93:24 purchase reports as compliant with the 93:25 Controlled Substances Act?	
94:3 - 94:3	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.28
94:22 - 95:2	94:3 THE WITNESS: Yes. Mapes, Michael 07-11-2019 (00:00:17) 94:22 You don't recall saying to 94:23 anyone, a registrant, for example, "You can't 94:24 submit these kinds of excessive purchase	vMapes6ALL.29

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95:5 - 95:6	94:25 reports and still be compliant with the 95:1 Controlled Substances Act" in your role as a 95:2 diversion investigator or a group supervisor? Mapes, Michael 07-11-2019 (00:00:02)	vMapes6ALL.30
95:8 - 95:19	95:5 THE WITNESS: No, I don't 95:6 remember saying that. Mapes, Michael 07-11-2019 (00:00:26) 95:8 Q. And we've been talking about 95:9 excessive purchase reports, but sometimes 95:10 people -- registrants would call them by 95:11 different names. 95:12 Do you recall that, or in your 95:13 experience were they all called excessive 95:14 purchase reports? 95:15 A. Generally referred to as 95:16 excessive purchase reports. Could be called 95:17 suspicious order reports. 95:18 Q. And were they generally in a 95:19 similar format across the industry?	vMapes6ALL.31
95:24 - 96:12	Mapes, Michael 07-11-2019 (00:00:25) 95:24 Q. Do you understand my question? 95:25 A. Yes. 96:1 They were in different formats 96:2 depending on the company that was sending 96:3 them. Some would send computer printouts. 96:4 Some would send copies of invoices. So there 96:5 are different ways that they were sent. 96:6 Q. They generally provided the 96:7 same kind of information? 96:8 A. Yes. 96:9 Q. About purchases and sales that 96:10 had already happened? 96:11 A. Correct. 96:12 Q. And DEA accepted those?	vMapes6ALL.32
96:15 - 96:15	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.33
96:21 - 96:22	96:15 Q. In your personal experience? Mapes, Michael 07-11-2019 (00:00:01) 96:21 THE WITNESS: Yes, we accepted 96:22 those.	vMapes6ALL.34
97:9 - 97:10	Mapes, Michael 07-11-2019 (00:00:04)	vMapes6ALL.35

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97:12 - 97:13	97:9 Q. So in your personal experience, 97:10 were you the only one who accepted these? Mapes, Michael 07-11-2019 (00:00:04)	vMapes6ALL.36
97:25 - 98:4	97:12 THE WITNESS: No other groups 97:13 accepted the same type of reports. Mapes, Michael 07-11-2019 (00:00:15)	vMapes6ALL.37
98:7 - 98:22	97:25 Q. Are you aware of DEA 98:1 headquarters approving particular suspicious 98:2 order monitoring systems submitted by a 98:3 registrant at any time in your experience at 98:4 DEA? Mapes, Michael 07-11-2019 (00:00:33)	vMapes6ALL.38
98:24 - 99:13	98:7 THE WITNESS: I do recall one 98:8 time that I was in headquarters and we 98:9 received a letter from a wholesaler 98:10 about their suspicious order 98:11 monitoring program, and we told them 98:12 that it did comply with the 98:13 requirements in the regulation. 98:14 QUESTIONS BY MS. MCCLURE: 98:15 Q. What role were you in when you 98:16 received that letter? 98:17 A. The deputy chief of liaison and 98:18 policy. 98:19 Q. And when you say "we" received 98:20 that letter, were you personally involved 98:21 with the approval of that suspicious order 98:22 monitoring system? Mapes, Michael 07-11-2019 (00:00:28)	vMapes6ALL.39
	98:24 THE WITNESS: Yes. 98:25 99:1 QUESTIONS BY MS. MCCLURE: 99:2 Q. Who else is encompassed within 99:3 that "we" that you've provided? 99:4 A. A staff coordinator that 99:5 reviewed the incoming correspondence from the 99:6 company, drafted the response to the company 99:7 and then sent it to me for approval, or in 99:8 this case signature, to send it to the 99:9 company.	

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	99:10 Q. Did you sign that?	
	99:11 A. Yes.	
	99:12 Q. And what company was that?	
	99:13 A. AmerisourceBergen.	
129:15 - 130:2	Mapes, Michael 07-11-2019 (00:00:26)	vMapes6ALL.40
	129:15 Q. Okay. So Kyle Wright and	
	129:16 yourself initiated the Distributor	
	129:17 Initiative?	
	129:18 A. That's correct.	
	129:19 Q. Is it sometimes called the	
	129:20 distributor briefings?	
	129:21 A. Yes.	
	129:22 Q. Do you -- okay.	
	129:23 So those are interchangeable?	
	129:24 A. They are.	
	129:25 Q. And what was the reason that	
	130:1 you and Mr. Wright initiated the distributor	
	130:2 briefings?	
130:8 - 130:10	Mapes, Michael 07-11-2019 (00:00:06)	vMapes6ALL.41
	130:8 THE WITNESS: It was started in	
	130:9 response to the Internet pharmacy	
	130:10 issue.	
130:12 - 131:15	Mapes, Michael 07-11-2019 (00:01:39)	vMapes6ALL.42
	130:12 Q. What was the Internet pharmacy	
	130:13 issue?	
	130:14 A. That was when websites were	
	130:15 starting to offer their service to patients,	
	130:16 doctors and pharmacies to put the three	
	130:17 together so that patients could get a	
	130:18 prescription filled by a pharmacy after	
	130:19 completing a questionnaire on a website and	
	130:20 getting that approved by a doctor for a	
	130:21 prescription, and a pharmacy getting the	
	130:22 prescriptions and filling those and sending	
	130:23 them to the patients.	
	130:24 Q. So DEA's concern, am I right,	
	130:25 that there was not a doctor-patient	
	131:1 relationship in this scenario, the Internet	
	131:2 pharmacy situation?	
	131:3 A. That's one of the concerns,	

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	131:4 yes.	
	131:5 Q. What was the other concern?	
	131:6 I'm sorry if I missed it.	
	131:7 A. That the pharmacies were	
	131:8 filling prescriptions for patients that they	
	131:9 knew nothing about, for doctors that weren't	
	131:10 within the geographic area, all for the same	
	131:11 drug.	
	131:12 Q. Okay. And this Internet	
	131:13 pharmacy issue, as you called it, was	
	131:14 concerning to DEA?	
	131:15 A. It was concerning to me, yes.	
131:16 - 131:19	Mapes, Michael 07-11-2019 (00:00:11)	vMapes6ALL.43
	131:16 Q. In fact, by 2005, were Internet	
	131:17 pharmacies overwhelming DEA and exhausting	
	131:18 its resources as -- in your experience during	
	131:19 that time period?	
131:24 - 132:1	Mapes, Michael 07-11-2019 (00:00:05)	vMapes6ALL.44
	131:24 THE WITNESS: There were a	
	131:25 significant number of investigations,	
	132:1 and the investigations are lengthy.	
132:3 - 132:19	Mapes, Michael 07-11-2019 (00:00:50)	vMapes6ALL.45
	132:3 Q. So is that, yes, that the	
	132:4 resources needing to be devoted to the	
	132:5 Internet pharmacy issue were becoming a	
	132:6 problem or a concern?	
	132:7 A. A concern.	
	132:8 Q. A concern.	
	132:9 So you, together with	
	132:10 Mr. Wright, developed presentations for	
	132:11 distributors, correct?	
	132:12 A. That's correct.	
	132:13 Q. Was it basically the same	
	132:14 presentation given multiple times, or did the	
	132:15 presentation itself change?	
	132:16 A. It was the same basic	
	132:17 presentation with some unique information	
	132:18 about sales of each specific wholesaler that	
	132:19 we were talking with.	
134:1 - 134:2	Mapes, Michael 07-11-2019 (00:00:09)	vMapes6ALL.46

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	134:1 And for the record,	P9112.1
	134:2 US-DEA-00000147 through 164?	
134:4 - 134:20	Mapes, Michael 07-11-2019 (00:00:40)	vMapes6ALL.47
	134:4 Q. The first page of this	
	134:5 document that ends in 147, what is this?	
	134:6 A. This is a memo that I signed to	
	134:7 William Walker, who was the deputy assistant	
	134:8 administration in diversion, about a meeting	
	134:9 that was held on August 10th with Steve Mays	
	134:10 of the AmerisourceBergen Drug Company.	
	134:11 Q. And this memo was authored by	
	134:12 you, right?	
	134:13 That's your signature?	
	134:14 A. Yeah, it was actually authored	
	134:15 by Kyle Wright, and I signed it.	
	134:16 Q. Okay. But you signed it after	
	134:17 reviewing it, I assume?	
	134:18 A. Yes.	
	134:19 Q. Right?	
	134:20 A. Yes.	
135:3 - 135:6	Mapes, Michael 07-11-2019 (00:00:05)	vMapes6ALL.48
	135:3 Is this a complete and accurate	
	135:4 description of the meeting that you had with	
	135:5 Steve Mays?	
	135:6 A. As I remember it, yes.	
137:8 - 137:14	Mapes, Michael 07-11-2019 (00:00:14)	vMapes6ALL.49
	137:8 Q. And from the memo that you	
	137:9 wrote -- I'm sorry, that Kyle Wright wrote	
	137:10 and you signed, it looks like you led -- you,	
	137:11 Michael Mapes, led this distributor briefing	
	137:12 with AmerisourceBergen, this particular one,	
	137:13 right?	
	137:14 A. That's correct.	
138:13 - 138:15	Mapes, Michael 07-11-2019 (00:00:05)	vMapes6ALL.50
	138:13 Q. Do you recall your conversation	
	138:14 with Steve Mays to set up this meeting?	
	138:15 A. No.	
138:25 - 140:1	Mapes, Michael 07-11-2019 (00:01:13)	vMapes6ALL.51
	138:25 Q. How would you describe	
	139:1 Mr. Mays' demeanor during this meeting?	

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139:2 A. I really don't recall.

139:3 Q. Okay. At the end of the memo

P9112.2.2

139:4 on the top of the document Bates-labeled 148,

139:5 the -- I'm sorry, the third full paragraph,

139:6 it says, "It was agreed that if E-Commerce

139:7 operations were to identify a highly

139:8 suspicious pharmacy to which

139:9 AmerisourceBergen was the wholesaler, that

139:10 OC -- ODCO" --

139:11 That stands for E-Commerce

139:12 operations, right?

139:13 A. Yes.

139:14 Q. -- "would notify

139:15 AmerisourceBergen via e-mail of the

139:16 suspicious activity for AmerisourceBergen to

139:17 review and take the actions the company deems

139:18 appropriate."

139:19 Do you recall that portion of

139:20 the meeting?

139:21 A. No.

139:22 Q. Subsequent to this, do you

139:23 recall reaching out to AmerisourceBergen to

139:24 notify AmerisourceBergen of any suspicious

139:25 activity that DEA wanted AmerisourceBergen to

140:1 review and take appropriate action?

140:11 - 140:15

Mapes, Michael 07-11-2019 (00:00:08)

vMapes6ALL.52

140:11 THE WITNESS: No, I don't

140:12 recall any specific conversations.

140:13 QUESTIONS BY MS. MCCLURE:

140:14 Q. Was Mr. Mays cooperative during

140:15 this meeting, to your recollection?

140:18 - 140:19

Mapes, Michael 07-11-2019 (00:00:00)

vMapes6ALL.53

140:18 THE WITNESS: I just don't

140:19 recall.

clear

140:21 - 140:25

Mapes, Michael 07-11-2019 (00:00:10)

vMapes6ALL.54

140:21 Q. Other than what is

140:22 outlined in this memo and the presentation,

140:23 was there anything else discussed with

140:24 Mr. Mays during this briefing?

140:25 A. I don't recall.

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141:1 - 141:11	Mapes, Michael 07-11-2019 (00:00:14) 141:1 Q. If there was anything else 141:2 discussed, is it fair to say that your 141:3 practice would have been to put it in a memo 141:4 or in the presentation? 141:5 A. In the memo. 141:6 Q. Okay. So if there's anything 141:7 else discussed, it would be in the memo 141:8 itself? 141:9 A. Right. 141:10 (Mapes Exhibit 8 marked for 141:11 identification.)	vMapes6ALL.55
141:17 - 142:3	Mapes, Michael 07-11-2019 (00:00:41) 141:17 Q. So this is a similar 141:18 presentation titled "Internet Presentation 141:19 with McKesson Corp" for the memo on page 1 of 141:20 this Mapes 8, right? 141:21 A. Yes, it is. 141:22 Q. And this is a similar document 141:23 to what we just reviewed. 141:24 There's a cover memo followed 141:25 by a somewhat clearer copy of the 142:1 presentation, and that's MCKMDL00496859 to 142:2 875, right? 142:3 A. Yes.	vMapes6ALL.56 P12805.1
142:9 - 142:21	Mapes, Michael 07-11-2019 (00:00:32) 142:9 Q. And again, for the same 142:10 purpose, Internet pharmacies? 142:11 A. Yes. 142:12 Q. And again, if there had been 142:13 something additional discussed in your 142:14 meeting, you would have included it in the 142:15 cover memo? 142:16 A. Yes. 142:17 (Mapes Exhibit 9 marked for 142:18 identification.) 142:19 QUESTIONS BY MS. MCCLURE: 142:20 Q. And Mapes 9, US-DEA-00000352 142:21 through 366.	vMapes6ALL.57 P9114.1
142:23 - 143:3	Mapes, Michael 07-11-2019 (00:00:14)	vMapes6ALL.58

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	142:23 Q. And that is a similar 142:24 memo followed by the PowerPoint presentation 142:25 that you provided to Cardinal Health on the 143:1 topic of Internet pharmacies on August 22, 143:2 2005? 143:3 A. It is.	
143:4 - 143:17	Mapes, Michael 07-11-2019 (00:00:18) 143:4 Q. And again, may not be 143:5 literally identical, but the same basic 143:6 presentation you had given to 143:7 AmerisourceBergen Drug Corporation and 143:8 McKesson, correct? 143:9 A. Yes. 143:10 Q. For the same purpose, Internet 143:11 pharmacy issues? 143:12 A. Yes. 143:13 Q. And again, if there had been 143:14 something additional discussed in your 143:15 meeting, you would have included it in your 143:16 cover memo? 143:17 A. Yes.	vMapes6ALL.59
151:7 - 151:9	Mapes, Michael 07-11-2019 (00:00:04) 151:7 Q. Does the Controlled Substances 151:8 Act say that registrants should not ship 151:9 suspicious orders?	clear vMapes6ALL.60
151:16 - 151:17	Mapes, Michael 07-11-2019 (00:00:02) 151:16 THE WITNESS: Not specifically, 151:17 no.	vMapes6ALL.61
151:19 - 151:22	Mapes, Michael 07-11-2019 (00:00:16) 151:19 Q. And if an order is unusual in 151:20 size, frequency or pattern, do you agree that 151:21 that does not necessarily mean that that 151:22 order is going to be diverted?	vMapes6ALL.62
152:2 - 152:2	Mapes, Michael 07-11-2019 (00:00:01) 152:2 THE WITNESS: I agree.	vMapes6ALL.63
152:19 - 152:24	Mapes, Michael 07-11-2019 (00:00:19) 152:19 Q. If an order is not 152:20 suspicious and is therefore filled and 152:21 shipped and later downstream is diverted, 152:22 that fact of that diversion does not now	vMapes6ALL.64

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153:4 - 153:4	152:23 render the order suspicious; do you agree 152:24 with that? Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.65
153:6 - 153:9	153:4 THE WITNESS: Yes. Mapes, Michael 07-11-2019 (00:00:18)	vMapes6ALL.66
153:15 - 153:15	153:6 Q. Similarly, if an order is 153:7 regarded as suspicious but is shipped, would 153:8 you agree that that order is not necessarily, 153:9 in fact, going to be diverted? Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.67
163:2 - 163:7	153:15 THE WITNESS: Yes. Mapes, Michael 07-11-2019 (00:00:23)	vMapes6ALL.68
163:11 - 163:14	163:2 Q. After DEA issued what we've 163:3 marked as Mapes 12, which is the order to 163:4 show cause and immediate suspension of 163:5 registration, did the DEA work with 163:6 AmerisourceBergen to evaluate and develop a 163:7 new suspicious order monitoring program? Mapes, Michael 07-11-2019 (00:00:09)	P49.1 vMapes6ALL.69
177:19 - 178:4	163:11 THE WITNESS: No, 163:12 AmerisourceBergen created a new 163:13 program that we reviewed after they 163:14 created it. Mapes, Michael 07-11-2019 (00:00:28)	clear vMapes6ALL.70
178:11 - 178:16	177:19 After you reviewed the new 177:20 changed program that AmerisourceBergen had 177:21 developed, you attended a DEA-sponsored 177:22 pharmaceutical industry conference in 177:23 Houston, Texas, in September of 2007. 177:24 Do you recall that? 177:25 A. Yes, I do. 178:1 Q. And that was a DEA diversion 178:2 control division-sponsored conference, 178:3 correct? 178:4 A. It was. Mapes, Michael 07-11-2019 (00:00:17)	vMapes6ALL.71
	178:11 Q. Did you have an understanding 178:12 that Chris Zimmerman was asked to present at 178:13 this conference because you and DEA thought 178:14 that AmerisourceBergen's new system, the	

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178:24 - 179:9	<p>178:15 changed system, was appropriate and would be</p> <p>178:16 good to share with others in the industry?</p> <p>Mapes, Michael 07-11-2019 (00:00:26)</p> <p>178:24 THE WITNESS: Yes, that was my</p> <p>178:25 understanding of why he was asked to</p> <p>179:1 be part of that.</p> <p>179:2 QUESTIONS BY MS. MCCLURE:</p> <p>179:3 Q. And so I wasn't there, but it</p> <p>179:4 sounds like you and Mr. Zimmerman were both</p> <p>179:5 up on stage together presenting ABDC's</p> <p>179:6 changed program to industry at a DEA</p> <p>179:7 conference.</p> <p>179:8 Do I have that correct?</p> <p>179:9 A. Yes.</p>	vMapes6ALL.72
179:20 - 180:3	<p>Mapes, Michael 07-11-2019 (00:00:17)</p> <p>179:20 Q. In the second paragraph under</p> <p>179:21 Suspicious Orders, it says, "Mr. Zimmerman</p> <p>179:22 stressed the importance of knowing your</p> <p>179:23 customer and providing due diligence</p> <p>179:24 investigation on all new retail and wholesale</p> <p>179:25 accounts with the exception of retail chain</p> <p>180:1 pharmacies."</p> <p>180:2 Do you see that language there?</p> <p>180:3 A. I do.</p>	vMapes6ALL.73
180:4 - 180:8	<p>Mapes, Michael 07-11-2019 (00:00:17)</p> <p>180:4 Q. Can you explain the exception</p> <p>180:5 for retail chain pharmacies?</p> <p>180:6 A. No, I didn't discuss that</p> <p>180:7 particular exception with him, so I don't</p> <p>180:8 know why he included that.</p>	vMapes6ALL.74
180:20 - 180:25	<p>Mapes, Michael 07-11-2019 (00:00:12)</p> <p>180:20 Q. So does this refresh your</p> <p>180:21 recollection that Chris Zimmerman had a</p> <p>180:22 PowerPoint that he presented at the</p> <p>180:23 September 11, 2007 industry conference?</p> <p>180:24 A. No, I still don't remember the</p> <p>180:25 presentation details.</p>	vMapes6ALL.75
181:21 - 181:23	<p>Mapes, Michael 07-11-2019 (00:00:10)</p> <p>181:21 Q. Do you recall referring to this</p> <p>181:22 changed program as the new industry standard?</p>	vMapes6ALL.76

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181:24 - 182:2	<p>181:23 A. No, I don't recall that.</p> <p>Mapes, Michael 07-11-2019 (00:00:12)</p> <p>181:24 Q. Do you believe that -- was it</p> <p>181:25 your understanding that it was expected by</p> <p>182:1 DEA, to your understanding, to serve as a new</p> <p>182:2 standard?</p>	vMapes6ALL.77
182:9 - 182:18	<p>Mapes, Michael 07-11-2019 (00:00:20)</p> <p>182:9 THE WITNESS: It's my</p> <p>182:10 understanding that the</p> <p>182:11 AmerisourceBergen system was an</p> <p>182:12 example of a system that contained the</p> <p>182:13 type of information that we were</p> <p>182:14 looking for.</p> <p>182:15 QUESTIONS BY MS. MCCLURE:</p> <p>182:16 Q. And was compliant with the</p> <p>182:17 Controlled Substances Act?</p> <p>182:18 A. Yes.</p>	vMapes6ALL.78
182:24 - 183:6	<p>Mapes, Michael 07-11-2019 (00:00:17)</p> <p>182:24 Q. If you turn to page 9 of</p> <p>182:25 whatever this PowerPoint exhibit is --</p> <p>183:1 MR. BENNETT: Mapes 17.</p> <p>183:2 MS. MCCLURE: Thank you. Yes,</p> <p>183:3 Mapes 17.</p> <p>183:4 QUESTIONS BY MS. MCCLURE:</p> <p>183:5 Q. -- which has little Bates</p> <p>183:6 numbers on it that end in 1786.</p>	<p>vMapes6ALL.79</p> <p>P44539.10</p>
183:7 - 183:22	<p>Mapes, Michael 07-11-2019 (00:00:31)</p> <p>183:7 It says, "Historically,</p> <p>183:8 controlled substance" -- I'm looking at the</p> <p>183:9 second and third bullet -- "slash, listed</p> <p>183:10 chemical order monitoring has been based on a</p> <p>183:11 ship and report process."</p> <p>183:12 And the next bullet, "ABC's OMP</p> <p>183:13 process is now based on identify, capture,</p> <p>183:14 investigate and report suspicious orders, all</p> <p>183:15 prior to shipment."</p> <p>183:16 Do you see that language?</p> <p>183:17 A. Yes, I do.</p> <p>183:18 Q. And was it your understanding</p> <p>183:19 that this was one of the new features of the</p>	vMapes6ALL.80

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183:20	changed program that AmerisourceBergen had	
183:21	developed?	
183:22	A. Yes.	
183:23 - 183:25	Mapes, Michael 07-11-2019 (00:00:05)	vMapes6ALL.81
183:23	Q. And this was new not just to	
183:24	AmerisourceBergen but to the wholesale	
183:25	industry?	
184:4 - 184:4	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.82
184:4	Q. Distributor industry.	
184:11 - 184:12	Mapes, Michael 07-11-2019 (00:00:04)	vMapes6ALL.83
184:11	THE WITNESS: Yes, this was a	
184:12	change for the wholesale industry.	clear
184:14 - 184:25	Mapes, Michael 07-11-2019 (00:00:25)	vMapes6ALL.84
184:14	Q. Mr. Mapes, after you retired	
184:15	from DEA in 2007, you began consulting, as we	
184:16	discussed much earlier in today's deposition?	
184:17	A. Yes.	
184:18	Q. And one of those companies that	
184:19	you performed some consulting work for was	
184:20	AmerisourceBergen Drug Corporation, correct?	
184:21	A. That's correct.	
184:22	Q. When did you first start	
184:23	consulting for AmerisourceBergen Drug	
184:24	Corporation?	
184:25	A. In early 2008.	
188:14 - 188:18	Mapes, Michael 07-11-2019 (00:00:16)	vMapes6ALL.85
188:14	Q. Going back to excessive	
188:15	purchase reports.	
188:16	DEA's acceptance of excessive	
188:17	purchase reports changed at some point,	
188:18	correct?	
188:25 - 189:14	Mapes, Michael 07-11-2019 (00:00:37)	vMapes6ALL.86
188:25	THE WITNESS: The nature of the	
189:1	reports that I was involved with that	
189:2	were accepted did change, yes.	
189:3	QUESTIONS BY MS. MCCLURE:	
189:4	Q. And what was the change?	
189:5	A. It was change from a report	
189:6	that was called an excessive purchase report	
189:7	after the fact to a report that was of	

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189:8 specific suspicious orders before they were

189:9 shipped.

189:10 Q. And that's the change that

189:11 we've talked about that AmerisourceBergen had

189:12 in the April, May, June 2007 time period that

189:13 you reviewed, correct?

189:14 A. Yes.

195:20 - 196:7

Mapes, Michael 07-11-2019 (00:00:37)

vMapes6ALL.87

195:20 Q. Would you expect that if

195:21 a representative of DEA was having a

195:22 conversation with a registrant to answer

195:23 their questions about suspicious order

195:24 monitoring systems, that the DEA employee

195:25 would be honest in their conversations with

196:1 the registrant?

196:2 A. Yeah, I would expect so.

196:3 Q. And would you expect that the

196:4 registrant would be able to rely on the

196:5 information that was provided by the DEA

196:6 employee in those conversations?

196:7 A. Yes.

197:14 - 198:1

Mapes, Michael 07-11-2019 (00:00:39)

vMapes6ALL.88

197:14 You were aware that the system

197:15 that ABDC was presenting at the conference

197:16 represented a change in how wholesalers were

197:17 conducting suspicious order monitoring and

197:18 reporting; is that correct?

197:19 A. It is.

197:20 Q. Okay. And when -- but there

197:21 was no change in the regulation, correct?

197:22 A. That's correct.

197:23 Q. So is it fair to say that the

197:24 change was in what DEA -- how DEA was

197:25 expecting wholesalers to comply with the

198:1 regulation?

198:8 - 198:12

Mapes, Michael 07-11-2019 (00:00:12)

vMapes6ALL.89

198:8 THE WITNESS: Yes, I did expect

198:9 that wholesalers would report

198:10 suspicious orders differently than

198:11 they had prior to the meetings and

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202:22 - 203:19	<p>198:12 that conference.</p> <p>Mapes, Michael 07-11-2019 (00:01:07)</p> <p>202:22 Q. Do you recall -- leaving</p> <p>202:23 aside whether it was at this particular</p> <p>202:24 meeting, which I understand that you can't</p> <p>202:25 recall, do you recall ever communicating that</p> <p>203:1 point that's recited here, that DEA only</p> <p>203:2 wanted to receive suspicious order reports</p> <p>203:3 of, quote, true suspicious orders to</p> <p>203:4 registrants?</p> <p>203:5 A. I recall discussing that, but I</p> <p>203:6 don't recall who it was with or when, that</p> <p>203:7 kind of thing.</p> <p>203:8 Q. Okay. Fair enough.</p> <p>203:9 And what does that mean, to say</p> <p>203:10 that DEA -- well, to your understanding, what</p> <p>203:11 did that mean when you communicated that DEA</p> <p>203:12 wanted to receive reports that were true</p> <p>203:13 suspicious orders, not merely volumes that</p> <p>203:14 went over a threshold?</p> <p>203:15 A. That we are looking for reports</p> <p>203:16 that the wholesalers had reviewed, not just</p> <p>203:17 with a raw number of drugs that were ordered</p> <p>203:18 but reviewed it and determined that it was</p> <p>203:19 suspicious.</p>	vMapes6ALL.90
205:2 - 205:11	<p>Mapes, Michael 07-11-2019 (00:00:43)</p> <p>205:2 Q. If someone asserted that</p> <p>205:3 90 percent of all orders that were shipped</p> <p>205:4 after September of 2007 should have been</p> <p>205:5 reported to DEA as suspicious, would that be</p> <p>205:6 consistent with your expectations as you've</p> <p>205:7 described them today?</p> <p>205:8 A. If they said 90 percent of</p> <p>205:9 orders shipped by wholesalers, no, I wouldn't</p> <p>205:10 think that was a number that was close to</p> <p>205:11 those that should be suspicious.</p>	vMapes6ALL.91
206:15 - 207:5	<p>Mapes, Michael 07-11-2019 (00:01:03)</p> <p>206:15 At the conclusion of a cyclic</p> <p>206:16 audit, is it correct that the DEA</p> <p>206:17 investigator's report would not be provided</p>	vMapes6ALL.92

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	206:18 to the registrant?	
	206:19 A. Yes, that's correct.	
	206:20 Q. So is it correct that a	
	206:21 registrant who went through a cyclic audit	
	206:22 and had no discrepancies found, the	
	206:23 registrant would not have a DEA document	
	206:24 reflecting that fact? Is that correct?	
	206:25 A. Unless the registrant requested	
	207:1 it through FOI or something like that.	
	207:2 Q. So your understanding that	
	207:3 registrants could receive audit reports	
	207:4 through the FOIA process?	
	207:5 A. Yes.	
212:8 - 212:18	Mapes, Michael 07-11-2019 (00:00:35)	vMapes6ALL.93
	212:8 Q. Section 1301.74(a) requires a	D640.1.2
	212:9 registrant to then check its customer's DEA	
	212:10 registration before distributing controlled	
	212:11 substances to the customer, correct?	
	212:12 A. It requires they check it at	
	212:13 some point in time, not necessarily every	
	212:14 time before they distribute.	
	212:15 Q. Section 1301.74(a) imposes no	
	212:16 other requirement on distributors to perform	
	212:17 due diligence on its customers, does it?	
	212:18 A. It does not.	clear
216:4 - 216:9	Mapes, Michael 07-11-2019 (00:00:14)	vMapes6ALL.94
	216:4 Q. The objective of this	
	216:5 additional diligence that you were requesting	
	216:6 out of distributors was for the distributors	
	216:7 to be able to identify those rogue Internet	
	216:8 pharmacy customers of theirs, correct?	
	216:9 A. Yes.	
216:10 - 216:14	Mapes, Michael 07-11-2019 (00:00:11)	vMapes6ALL.95
	216:10 Q. You were not intending the	
	216:11 additional diligence to require distributors	
	216:12 to investigate the inner workings of every	
	216:13 independent pharmacy across America that they	
	216:14 may service, correct?	
216:20 - 217:1	Mapes, Michael 07-11-2019 (00:00:16)	vMapes6ALL.96
	216:20 THE WITNESS: I was expecting	

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216:21 that over time they would use the same
 216:22 procedures for all the pharmacies that
 216:23 they were dealing with to be certain
 216:24 that there wasn't a problem that they
 216:25 wouldn't see without the extra due
 217:1 diligence.

217:3 - 217:24

Mapes, Michael 07-11-2019 (00:00:51)

vMapes6ALL.97

217:3 Q. And the problem that they were
 217:4 to be looking for was whether or not they
 217:5 were an Internet pharmacy?
 217:6 A. An Internet pharmacy or any
 217:7 pharmacy that was selling drugs for other
 217:8 than legitimate medical purpose.
 217:9 Q. Such as a pill mill, correct?
 217:10 A. Yes.
 217:11 Q. Now, during the distributor
 217:12 briefings, you told distributors that you
 217:13 were not concerned with large retail chain
 217:14 pharmacies at the time, correct?
 217:15 A. No.
 217:16 Q. That's not correct?
 217:17 A. I don't believe so.
 217:18 Q. Do you recall instructing
 217:19 distributors at the distributor briefings to
 217:20 conduct due diligence on retail chain
 217:21 pharmacies?
 217:22 A. I don't recall that we made a
 217:23 distinction between retail chain pharmacies
 217:24 and independent pharmacies.

217:25 - 218:10

Mapes, Michael 07-11-2019 (00:00:29)

vMapes6ALL.98

217:25 Q. In asking the distributors to
 218:1 conduct this additional diligence, you
 218:2 understood that distributors did not have
 218:3 access to all of the distribution and sales
 218:4 data from each of their pharmacy customers,
 218:5 correct?
 218:6 A. Yes.
 218:7 Q. And you also understood the
 218:8 distributors would not be able to identify
 218:9 all of the bad actors within the supply chain

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218:13 - 218:15	218:10 with this additional diligence, correct? Mapes, Michael 07-11-2019 (00:00:05)	vMapes6ALL.99
	218:13 THE WITNESS: I didn't expect 218:14 that they could immediately identify 218:15 everyone, no.	
218:18 - 218:20	Mapes, Michael 07-11-2019 (00:00:09)	vMapes6ALL.100
	218:18 It wasn't your intention that 218:19 distributors became deputized agents to the 218:20 DEA, was it?	
218:23 - 218:23	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.101
	218:23 THE WITNESS: No.	
221:4 - 221:12	Mapes, Michael 07-11-2019 (00:00:27)	vMapes6ALL.102
	221:4 Q. Do you agree that a 221:5 distributor's program that identified, 221:6 captured or blocked, investigated and 221:7 reported suspicious orders prior to shipment 221:8 would be in compliance with the Controlled 221:9 Substances Act and its regulations? 221:10 A. It could be, depending on what 221:11 their criteria for identifying suspicious 221:12 orders were.	
223:14 - 224:11	Mapes, Michael 07-11-2019 (00:00:43)	vMapes6ALL.103
	223:14 Q. Would you agree with me that 223:15 diversion can occur in many different ways? 223:16 A. Yes. 223:17 Q. For example, opioids can be 223:18 stolen from a delivery truck; that's 223:19 diversion, correct? 223:20 A. Yes. 223:21 Q. Someone could go into their 223:22 grandmother's cabinet and take their 223:23 grandmother's opioids that she was prescribed 223:24 for a legitimate purpose; that would be 223:25 diversion? 224:1 A. Yes. 224:2 Q. Someone could take opioids from 224:3 a friend who was prescribed the opioids for 224:4 legitimate reasons; that would be diversion, 224:5 wouldn't it? 224:6 A. Yes.	

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224:7	Q. Distributors have nothing to do	
224:8	with opioids that are diverted when the	
224:9	opioids are stolen from friends or family	
224:10	members, do they?	
224:11	A. No, they don't.	
224:12 - 224:16	Mapes, Michael 07-11-2019 (00:00:12)	vMapes6ALL.104
224:12	Q. The vast majority of diversion	
224:13	occurs once opioids leave the closed system	
224:14	of distribution; would you agree with that?	
224:15	A. I don't know that to be true or	
224:16	not.	
224:21 - 224:24	Mapes, Michael 07-11-2019 (00:00:10)	vMapes6ALL.105
224:21	You would agree that	
224:22	distributors cannot control what happens to	
224:23	pills once those pills are delivered to their	
224:24	pharmacy customers, correct?	
225:2 - 225:2	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.106
225:2	THE WITNESS: That's correct.	
225:4 - 225:15	Mapes, Michael 07-11-2019 (00:00:23)	vMapes6ALL.107
225:4	Q. Are you familiar with the term	
225:5	"overprescribing"?	
225:6	A. Yes.	
225:7	Q. What is overprescribing?	
225:8	A. It's when a prescriber	
225:9	prescribes more controlled substances than	
225:10	are necessary or prescribes controlled	
225:11	substances to people that it may not be	
225:12	necessary for.	
225:13	Q. Is overprescribing a form of	
225:14	diversion?	
225:15	A. Yes.	
225:16 - 225:21	Mapes, Michael 07-11-2019 (00:00:13)	vMapes6ALL.108
225:16	Q. Overprescribing is a form of	
225:17	diversion even if the prescriber is	
225:18	well-intentioned and believes there's a	
225:19	legitimate medical purpose for prescribing	
225:20	the amount and dosage that he or she	
225:21	prescribed?	
225:24 - 225:24	Mapes, Michael 07-11-2019 (00:00:01)	vMapes6ALL.109
225:24	THE WITNESS: It could be.	

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226:5 - 226:8	Mapes, Michael 07-11-2019 (00:00:08) 226:5 Q. You'd agree with me the 226:6 distributors have no insight into determining 226:7 whether a doctor has overprescribed opioids 226:8 to her patient?	vMapes6ALL.110
226:12 - 226:12	Mapes, Michael 07-11-2019 (00:00:01) 226:12 THE WITNESS: Generally not.	vMapes6ALL.111
227:3 - 228:2	Mapes, Michael 07-11-2019 (00:01:04) 227:3 Q. Earlier today you testified 227:4 about meetings that you had with the 227:5 plaintiffs' counsel in 2018. 227:6 Do you remember that testimony? 227:7 A. Yes. 227:8 Q. I believe you said you had two 227:9 meetings, one in the summer and one in the 227:10 fall of 2018, correct? 227:11 A. Yes. 227:12 Q. Now, did you -- during those 227:13 meetings with the plaintiffs' counsel in 227:14 2018, did you tell plaintiffs' counsel that 227:15 the DEA had approved the distributors' 227:16 submission of excessive purchase reports 227:17 after orders had been shipped? 227:18 A. I believe that was discussed, 227:19 yes. 227:20 Q. Did you tell plaintiffs' 227:21 counsel during those meetings that in your 227:22 experience excessive purchase reports 227:23 complied with the requirements of the 227:24 Controlled Substances Act and its 227:25 regulations, at least for your time at DEA 228:1 between 1977 and the distributor briefings? 228:2 A. Yes.	vMapes6ALL.112
228:13 - 229:1	Mapes, Michael 07-11-2019 (00:00:40) 228:13 Q. During these meetings with the 228:14 plaintiffs' counsel in 2018, did you tell 228:15 plaintiffs' counsel the distributor briefings 228:16 focused on Internet pharmacy issues? 228:17 A. Yes. 228:18 Q. Did you tell plaintiffs'	vMapes6ALL.113

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	228:19 counsel that the additional diligence you 228:20 requested of distributors at these 228:21 distributor briefings was to help identify 228:22 Internet pharmacies? 228:23 A. I don't recall specifically 228:24 that was how it was worded. 228:25 Q. But something similar? 229:1 A. Yes.	
229:17 - 229:21	Mapes, Michael 07-11-2019 (00:00:12) 229:17 Q. After your discussions with the 229:18 plaintiffs' counsel, the plaintiffs did not 229:19 contact you to ask you to serve as an expert 229:20 for plaintiffs in this case, correct? 229:21 A. That's correct.	vMapes6ALL.114
332:25 - 333:5	Mapes, Michael 07-12-2019 (00:00:07) 332:25 (Mapes Exhibit 20 marked for 333:1 identification.) 333:2 QUESTIONS BY MR. LANIER: 333:3 Q. I'm going to hand you a 333:4 document we're going to mark as Exhibit 333:5 Number 20.	vMapes6ALL.115 P44542.1
337:24 - 338:23	Mapes, Michael 07-12-2019 (00:01:27) 337:24 Q. Now, in that regard, the first 337:25 stop we're going to make is personal 338:1 background. And I'm going to keep a sheet of 338:2 your personal background, and we're going to 338:3 mark these documents that I'm showing to the 338:4 jury as an exhibit so that both sides have 338:5 them and we've got the benefit of them as a 338:6 demonstrative exhibit for the jury. 338:7 Your personal background, you 338:8 gave us a lot of it yesterday, but what I'd 338:9 like to do is sort of go in and look at you 338:10 from another angle. 338:11 Are you familiar with the 338:12 concern that has been expressed about a 338:13 revolving door between government and 338:14 industry? 338:15 A. Yes. 338:16 Q. And a revolving door -- you	vMapes6ALL.116 MAPES32.37

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338:17	know, most doors are just a door that's, you	
338:18	know, this, with a doorknob. But a revolving	
338:19	door is one of those doors that tends to	
338:20	revolve around, such that you've got an	
338:21	ability to go in one way and out the other.	
338:22	Do you follow me?	
338:23	A. Yes.	
339:15 - 339:19	Mapes, Michael 07-12-2019 (00:00:15)	vMapes6ALL.117
339:15	The reason the revolving door	
339:16	is a concern is because there seems to be a	
339:17	pattern of folks working for the DEA who then	
339:18	go to work for the very industries they were	
339:19	supposed to be overseeing, correct?	
339:22 - 339:24	Mapes, Michael 07-12-2019 (00:00:04)	vMapes6ALL.118
339:22	THE WITNESS: Yes, I went to	
339:23	work with the industries after	
339:24	retiring from DEA.	clear
342:24 - 343:1	Mapes, Michael 07-12-2019 (00:00:12)	vMapes6ALL.119
342:24	Q. But while you retired from the	
342:25	DEA, so the jury's clear, you just started	
343:1	going to work for industry, didn't you?	
343:3 - 343:4	Mapes, Michael 07-12-2019 (00:00:02)	vMapes6ALL.120
343:3	THE WITNESS: Yes, I did work	
343:4	for industry.	
349:19 - 349:22	Mapes, Michael 07-12-2019 (00:00:10)	vMapes6ALL.121
349:19	Q. Well, let's put it this way:	
349:20	You are someone who was a DEA official who	
349:21	went to work for the pharmaceutical industry	
349:22	since 2000, aren't you?	
349:25 - 350:3	Mapes, Michael 07-12-2019 (00:00:05)	vMapes6ALL.122
349:25	THE WITNESS: Yes.	
350:1	QUESTIONS BY MR. LANIER:	
350:2	Q. You did that in 2007 or '8?	
350:3	A. 2008.	
350:13 - 350:18	Mapes, Michael 07-12-2019 (00:00:17)	vMapes6ALL.123
350:13	Q. Now, in this	
350:14	regard, sir, this idea of a revolving door,	
350:15	you being -- working governing industry and	
350:16	then all of a sudden you going to work for	
350:17	industry, you get paid by industry when they	

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350:21 - 351:1	350:18 hire you to do their work, don't you? Mapes, Michael 07-12-2019 (00:00:11)	vMapes6ALL.124
	350:21 THE WITNESS: Yes.	
	350:22 QUESTIONS BY MR. LANIER:	
	350:23 Q. So in addition to the money	
	350:24 that you were getting in retirement from the	
	350:25 government, you start making money from	
351:3 - 351:9	351:1 industry, fair? Mapes, Michael 07-12-2019 (00:00:15)	vMapes6ALL.125
	351:3 THE WITNESS: Yes.	
	351:4 QUESTIONS BY MR. LANIER:	
	351:5 Q. And the money you've made from	
	351:6 industry, is that based always on an hourly	
	351:7 rate or was it ever on a project or as a	
	351:8 salary?	
	351:9 A. A little of both.	
353:9 - 353:11	Mapes, Michael 07-12-2019 (00:00:06)	vMapes6ALL.126
	353:9 Q. Because I know you've	
	353:10 been hired by one of the companies in this	
353:14 - 353:18	353:11 case right now, haven't you? Mapes, Michael 07-12-2019 (00:00:08)	vMapes6ALL.127
	353:14 THE WITNESS: Yes.	
	353:15 QUESTIONS BY MR. LANIER:	
	353:16 Q. Tell the jury who's hired you,	
	353:17 who you're working for right now, that was	
	353:18 asking you questions yesterday.	
353:20 - 353:25	Mapes, Michael 07-12-2019 (00:00:08)	vMapes6ALL.128
	353:20 THE WITNESS: The Williams	
	353:21 Connolly firm.	
	353:22 QUESTIONS BY MR. LANIER:	
	353:23 Q. And who do they represent, to	
	353:24 your knowledge?	
	353:25 A. Cardinal Health.	
360:2 - 360:7	Mapes, Michael 07-12-2019 (00:00:05)	vMapes6ALL.129
	360:2 (Mapes Exhibit 24 marked for	P44541.1
	360:3 identification.)	
	360:4 QUESTIONS BY MR. LANIER:	
	360:5 Q. Now, I'll give you Exhibit	
	360:6 Number 24. This is a copy of your LinkedIn	
	360:7 page.	clear

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365:4 - 365:6	Mapes, Michael 07-12-2019 (00:00:08) 365:4 Q. And that's why companies like 365:5 AmerisourceBergen put you into their 365:6 corporate charts.	vMapes6ALL.130
365:13 - 365:19	Mapes, Michael 07-12-2019 (00:00:07) 365:13 THE WITNESS: I don't know why 365:14 they added me to their chart. 365:15 (Mapes Exhibit 25 marked for 365:16 identification.) 365:17 QUESTIONS BY MR. LANIER: 365:18 Q. Let me give you a document that 365:19 we'll mark as Exhibit Number 25	vMapes6ALL.131 P81.1
370:8 - 370:13	Mapes, Michael 07-12-2019 (00:00:16) 370:8 Q. And so here we see for 370:9 AmerisourceBergen in Exhibit 25 associates 370:10 assigned to provide resources for the 370:11 diversion control program, and it starts up 370:12 here with a vice president and an 370:13 administrative assistant.	vMapes6ALL.132 P81.1.1
370:23 - 370:25	Mapes, Michael 07-12-2019 (00:00:08) 370:23 Q. And if I follow the chart 370:24 right, they've got you basically reporting to 370:25 the vice president, don't they?	vMapes6ALL.133 P81.1.2
371:2 - 371:4	Mapes, Michael 07-12-2019 (00:00:07) 371:2 THE WITNESS: I didn't report 371:3 to the vice president. It was mainly 371:4 with Steve Mays, the director of CSRA.	vMapes6ALL.134
371:9 - 371:12	Mapes, Michael 07-12-2019 (00:00:09) 371:9 Q. So practically speaking, the 371:10 vice president didn't take your cares or 371:11 concerns. You didn't even know technically 371:12 you were reporting to him; is that right?	vMapes6ALL.135
371:15 - 371:16	Mapes, Michael 07-12-2019 (00:00:03) 371:15 THE WITNESS: Practically I 371:16 reported to Steve Mays.	vMapes6ALL.136
384:16 - 384:22	Mapes, Michael 07-12-2019 (00:00:23) 384:16 That law that closes this loop, 384:17 that requires the distributors to only give 384:18 to registered and approved pharmacies for 384:19 legitimate purposes to stop diversion. I	vMapes6ALL.137 MAPES32.28

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385:2 - 385:2	384:20 mean, knowing their customers, knowing the 384:21 pharmacies, that's diversion control 101, 384:22 isn't it? Mapes, Michael 07-12-2019 (00:00:02)	vMapes6ALL.138
386:13 - 386:17	385:2 THE WITNESS: Yes, it's basic. Mapes, Michael 07-12-2019 (00:00:13) 386:13 Q. Let me be more clear. Some 386:14 people don't understand what I mean. 386:15 This law for the Controlled 386:16 Substances Act, that doesn't apply just to 386:17 Internet pharmacies, does it?	vMapes6ALL.139 MAPES32.21
386:19 - 387:3	Mapes, Michael 07-12-2019 (00:00:27) 386:19 THE WITNESS: It applies to all 386:20 handlers of controlled substances. 386:21 QUESTIONS BY MR. LANIER: 386:22 Q. Yeah. There's not a -- where's 386:23 the note I just used? 386:24 Aren't distributors required to 386:25 know their customers, diversion control 101, 387:1 that's not only applicable to Internet 387:2 pharmacies; it applies to all their 387:3 customers, doesn't it?	vMapes6ALL.140
387:8 - 387:19	Mapes, Michael 07-12-2019 (00:00:23) 387:8 THE WITNESS: It applies to all 387:9 registrants, yes. 387:10 QUESTIONS BY MR. LANIER: 387:11 Q. Yeah. Everybody in the loop, 387:12 right? 387:13 A. Yes. 387:14 Q. And so when the lawyers talked 387:15 to you about these Internet pharmacy 387:16 concerns, let's just make real clear that the 387:17 law that we're talking about is -- the same 387:18 law applies to all pharmacies, whether 387:19 they're Internet or not.	vMapes6ALL.141
388:3 - 388:3	Mapes, Michael 07-12-2019 (00:00:00) 388:3 THE WITNESS: It does.	vMapes6ALL.142
388:14 - 388:18	Mapes, Michael 07-12-2019 (00:00:11) 388:14 But in terms of the opioid loop 388:15 and what the distributors have to do, there's	vMapes6ALL.143

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388:16	no special law for distributors that pertains	
388:17	to how they treat Internet pharmacies versus	
388:18	others, is there?	
388:20 - 388:20	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.144
388:20	THE WITNESS: No.	clear
395:18 - 395:19	Mapes, Michael 07-12-2019 (00:00:02)	vMapes6ALL.145
395:18	(Mapes Exhibit 26 marked for	
395:19	identification.)	
396:1 - 396:3	Mapes, Michael 07-12-2019 (00:00:06)	vMapes6ALL.146
396:1	Do you have Exhibit Number 26	P684.1.1
396:2	in front of you?	
396:3	A. I do.	
397:6 - 398:13	Mapes, Michael 07-12-2019 (00:01:44)	vMapes6ALL.147
397:6	Q. "Steve, at the meeting at DEA,	P684.2.1
397:7	I was not sure if your company had sold	
397:8	controlled substances to any of the	
397:9	pharmacies that were used as examples in the	
397:10	presentation. We checked ARCOS" --	
397:11	What is ARCOS?	
397:12	A. It's a system that collects	
397:13	data from registrants concerning sales of	
397:14	Schedule II and III narcotic drugs.	
397:15	Q. It is a system you guys have	
397:16	that will get all of the information about	
397:17	who's selling the drugs and who they're	
397:18	selling them to?	
397:19	A. Yes.	
397:20	Q. All right. "We checked the	
397:21	system that collects info on drug sales,	
397:22	ARCOS, and found you made several sales to	
397:23	Example Number 2 on page 10 of the printed	
397:24	presentation. It's a Florida pharmacy that's	
397:25	now out of business. Your sales were mostly	
398:1	hydrocodone products."	
398:2	That's an opiate drug, isn't	
398:3	it?	
398:4	A. It is.	
398:5	Q. So while the lawyer will show	
398:6	you and the jury that Mr. Mays informed you	
398:7	guys that they didn't want to be associated	

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398:20 - 398:20	398:8 with this type of illegal activity and they 398:9 reviewed their customers thoroughly, the 398:10 truth of the matter is, y'all went back and 398:11 checked and AmerisourceBergen was, in fact, 398:12 supplying drugs to this illegal, domestic 398:13 Internet pharmacy problem, correct? Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.148
401:12 - 401:17	398:20 THE WITNESS: Yes. Mapes, Michael 07-12-2019 (00:00:09) 401:12 (Mapes Exhibit 27 marked for 401:13 identification.) 401:14 QUESTIONS BY MR. LANIER: 401:15 Q. And then if we want to take it 401:16 a step further, I'll give you a document that 401:17 we'll mark as Exhibit Number 27.	vMapes6ALL.149 P9115.1
401:18 - 403:2	Mapes, Michael 07-12-2019 (00:01:44) 401:18 And Exhibit Number 27 -- do you 401:19 have it in front of you? 401:20 A. I do. 401:21 Q. -- is one where -- take a 401:22 moment and look at it, but I'll show you the 401:23 part that I'm interested in so it saves 401:24 everybody some time. 401:25 It talks about John Gilbert, 402:1 the legal counsel for McKesson, representing 402:2 McKesson, contacting you and Kyle Wright, 402:3 responding to questions about sales of 402:4 controlled substances by McKesson to six 402:5 Internet pharmacies that were located in the 402:6 Miami field division. 402:7 And then I'm specifically going 402:8 to ask you about this. You'll see it 402:9 references that they were briefed -- McKesson 402:10 was briefed by the DEA on September 1st of 402:11 2005, and the ARCOS report for the month of 402:12 October revealed that McKesson distribution 402:13 center in Lakeland, Florida, distributed over 402:14 2 million dosage units of hydrocodone -- 402:15 Now, that's an opioid, right? 402:16 A. Yes, it is.	vMapes6ALL.150 P9115.1.1 P9115.1.2

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	402:17 Q. -- to six suspected illicit	
	402:18 Internet pharmacies. They even filed	
	402:19 suspicious order reports involving these same	
	402:20 pharmacies but still distributed them.	
	402:21 Do you see that?	
	402:22 A. I do.	
	402:23 Q. Does that help refresh your	
	402:24 recollection of whether or not McKesson was	
	402:25 participating in this problem of Internet	
	403:1 pharmacies as well, illegal Internet	
	403:2 pharmacies?	
403:5 - 403:5	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.151
	403:5 THE WITNESS: It does.	
403:7 - 403:8	Mapes, Michael 07-12-2019 (00:00:03)	vMapes6ALL.152
	403:7 Q. And in fact, were they	
	403:8 participating in the problem? Is that true?	
403:11 - 403:11	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.153
	403:11 THE WITNESS: Yes.	
407:19 - 407:20	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.205
	407:19 (Mapes Exhibit 28 marked for	
	407:20 identification.)	
408:19 - 409:20	Mapes, Michael 07-12-2019 (00:01:02)	vMapes6ALL.154
	408:19 (Mapes Exhibit 29 marked for	P23733.1
	408:20 identification.)	
	408:21 QUESTIONS BY MR. LANIER:	
	408:22 Q. I'll hand it to you -- a copy	
	408:23 of it to you marked as Exhibit Number 29.	
	408:24 It's long. I don't need you to -- you're	
	408:25 welcome to go through the whole thing, but I	
	409:1 want to direct your attention specifically to	
	409:2 the background section. Just right there at	P23733.1.1
	409:3 the start.	
	409:4 August 4, 2006, you were still	
	409:5 at the DEA at that time, weren't you?	
	409:6 A. I was.	
	409:7 Q. By its deputy administrator,	
	409:8 Joseph T. Rannazzisi, issued an order to show	
	409:9 cause to McKesson with respect to its	
	409:10 Lakeland distribution center in Lakeland,	
	409:11 Florida.	

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	409:12 Do you see that?	
	409:13 A. I do.	
	409:14 Q. Order number 1 alleged, among	
	409:15 other things, that "McKesson failed to	
	409:16 maintain effective controls at the Lakeland	
	409:17 facility against diversion of particular	
	409:18 controlled substances."	
	409:19 Do you see that as well?	
	409:20 A. I do.	
409:23 - 410:4	Mapes, Michael 07-12-2019 (00:00:20)	vMapes6ALL.155
	409:23 Q. And then it says that,	P23733.1.2
	409:24 "Whereas, on November 1, 2007, Mr. Rannazzisi	
	409:25 issued a second order to show cause to	
	410:1 McKesson with respect to its Landover	
	410:2 distribution in Maryland for failing to	
	410:3 maintain effective controls."	
	410:4 Did you see that as well?	
410:7 - 410:7	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.156
	410:7 THE WITNESS: Yes, I see that.	
410:9 - 410:11	Mapes, Michael 07-12-2019 (00:00:09)	vMapes6ALL.157
	410:9 Q. Now, when defendants fail to	
	410:10 maintain effective control, is that a good	
	410:11 thing or a bad thing?	
410:13 - 410:13	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.158
	410:13 THE WITNESS: It's a bad thing.	
410:15 - 410:17	Mapes, Michael 07-12-2019 (00:00:04)	vMapes6ALL.159
	410:15 Q. Why?	
	410:16 A. Because that may allow drugs to	
	410:17 be diverted.	clear
411:8 - 411:16	Mapes, Michael 07-12-2019 (00:00:24)	vMapes6ALL.160
	411:8 The questions that I've asked	MAPES32.30
	411:9 you about Internet pharmacies, as far as	
	411:10 Cardinal Health is concerned, you also met	
	411:11 with them, right?	
	411:12 A. With counsel for Cardinal	
	411:13 Health, yes.	
	411:14 Q. And we have the notes from that	
	411:15 as Exhibit Number 9 that we looked at	
	411:16 yesterday, correct?	
411:18 - 411:19	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.161

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411:18 THE WITNESS: Yes, that is 411:19 correct.		
411:21 - 411:22	Mapes, Michael 07-12-2019 (00:00:05)	vMapes6ALL.162
411:21 Q. And Cardinal Health never 411:22 confessed to having problems?		MAPES32.31
411:25 - 411:25	Mapes, Michael 07-12-2019 (00:00:00)	vMapes6ALL.163
411:25 Q. Did they?		
412:3 - 412:3	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.164
412:3 THE WITNESS: They did not.		
412:5 - 412:8	Mapes, Michael 07-12-2019 (00:00:10)	vMapes6ALL.165
412:5 Q. And yet you know Cardinal 412:6 Health was also trafficking in the pills to 412:7 the Internet pharmacies that were illegal or 412:8 illicit, right?		
412:11 - 412:12	Mapes, Michael 07-12-2019 (00:00:03)	vMapes6ALL.166
412:11 THE WITNESS: They were selling 412:12 pills to pharmacies, yes.		
412:14 - 412:15	Mapes, Michael 07-12-2019 (00:00:04)	vMapes6ALL.167
412:14 Q. Failing to maintain effective 412:15 controls against diversion, true?		
412:20 - 412:22	Mapes, Michael 07-12-2019 (00:00:01)	vMapes6ALL.168
412:20 THE WITNESS: Yes. 412:21 (Mapes Exhibit 30 marked for 412:22 identification.)		
415:12 - 415:14	Mapes, Michael 07-12-2019 (00:00:10)	vMapes6ALL.169
415:12 Q. 1301.74, that's part of what 415:13 was asked you about yesterday, correct? 415:14 A. That's correct.		P19418B.27
416:25 - 417:2	Mapes, Michael 07-12-2019 (00:00:08)	vMapes6ALL.170
416:25 Q. And this is the same law that 417:1 requires them to report suspicious orders to 417:2 the DEA when discovered, fair?		
417:5 - 417:5	Mapes, Michael 07-12-2019 (00:00:00)	vMapes6ALL.171
417:5 THE WITNESS: It is.		
417:7 - 417:9	Mapes, Michael 07-12-2019 (00:00:08)	vMapes6ALL.172
417:7 Q. So this is the company's 417:8 requirement to design and operate the system. 417:9 It's not the DEA's job --		
417:12 - 418:4	Mapes, Michael 07-12-2019 (00:00:39)	vMapes6ALL.173
417:12 Q. -- right?		

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417:13 A. That's correct.

417:14 Q. And then on suspicious orders,

P19418B.28

417:15 report -- the next slide, "Reporting a

417:16 suspicious order to the DEA does not" --

417:17 And you put that in all caps

417:18 for your presentation, didn't you?

417:19 A. Yes.

417:20 Q. -- "does not relieve the

417:21 distributor of the responsibility to maintain

417:22 effective controls."

417:23 You can't just report the

417:24 suspicious order; you still have to maintain

417:25 effective controls, don't you?

418:1 A. Yes.

418:2 Q. Because it's the distributor's

418:3 decision whether or not they're going to ship

418:4 those suspicious drugs or not, isn't it?

418:6 - 418:6

Mapes, Michael 07-12-2019 (00:00:00)

vMapes6ALL.174

418:6 THE WITNESS: Yes.

418:8 - 418:13

Mapes, Michael 07-12-2019 (00:00:18)

vMapes6ALL.175

418:8 Q. And that's your next slide.

P19418B.13

418:9 You said, "The DEA cannot tell a distributor

418:10 if an order is legitimate or not. The

418:11 distributor must determine which orders are

418:12 suspicious and then make a sales decision."

418:13 Correct?

418:16 - 418:16

Mapes, Michael 07-12-2019 (00:00:01)

vMapes6ALL.176

418:16 THE WITNESS: Correct.

420:15 - 420:21

Mapes, Michael 07-12-2019 (00:00:20)

vMapes6ALL.177

420:15 Q. So you've got a

420:16 company that's got to make a sales decision,

420:17 knowing if they ship and sell the product

420:18 they make their money, most likely. And yet

420:19 it's their decision, it's not the DEA's, in

420:20 the normal course of events, absent some

420:21 order, right?

420:25 - 420:25

Mapes, Michael 07-12-2019 (00:00:01)

vMapes6ALL.178

420:25 THE WITNESS: Yes.

421:2 - 421:9

Mapes, Michael 07-12-2019 (00:00:23)

vMapes6ALL.179

421:2 Q. And so in your summary sheet,

P19418B.24

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	421:3 which is right toward the end, you had to 421:4 tell them that any "distributor selling 421:5 controlled substances that are being 421:6 dispensed outside the course of professional 421:7 practice must stop immediately." 421:8 You had to tell them that, 421:9 right?	
421:12 - 421:13	Mapes, Michael 07-12-2019 (00:00:01) 421:12 THE WITNESS: We did tell them 421:13 that, yes.	vMapes6ALL.180 clear
429:4 - 429:22	Mapes, Michael 07-12-2019 (00:00:52) 429:4 Q. I mean, you told these 429:5 companies that under the old Harrison 429:6 Narcotic Act -- you know what that is, right? 429:7 A. Yes. 429:8 Q. That's what preceded the 429:9 Controlled Substances Act? 429:10 A. Correct. 429:11 Q. And you would talk to these 429:12 companies about this US Supreme Court 429:13 explaining the need to hold suspicious 429:14 shipments, didn't you? 429:15 A. In those meetings, yes. 429:16 Q. And the case you were citing 429:17 from the US Supreme Court -- I looked at your 429:18 meeting notes -- 1943, Direct Sales versus 429:19 United States, correct? 429:20 A. Yes. 429:21 Q. So you knew since 1943 about 429:22 the need to hold suspicious orders --	vMapes6ALL.181
429:25 - 429:25	Mapes, Michael 07-12-2019 (00:00:01) 429:25 Q. -- didn't you?	vMapes6ALL.182
430:2 - 430:16	Mapes, Michael 07-12-2019 (00:00:37) 430:2 THE WITNESS: I don't recall 430:3 the details of that case and what it 430:4 refers to, but it was a case from... 430:5 QUESTIONS BY MR. LANIER: 430:6 Q. From 1943, Direct Sales versus 430:7 the United States, where the petitioner was a 430:8 registered drug manufacturer and wholesaler,	vMapes6ALL.183

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	430:9 and they were selling to Dr. Tate in such 430:10 quantities and so frequently that it must 430:11 have known he couldn't dispense the amounts 430:12 lawfully, and so he was distributing them 430:13 illegally. And they were continuing to ship 430:14 to him even after they should have known 430:15 this, and that's what they got nailed for. 430:16 That's the case, isn't it?	
430:19 - 430:19	Mapes, Michael 07-12-2019 (00:00:00)	vMapes6ALL.184
	430:19 THE WITNESS: Yes.	
430:21 - 430:25	Mapes, Michael 07-12-2019 (00:00:07)	vMapes6ALL.185
	430:21 Q. And you included that case in 430:22 what you gave the companies? 430:23 A. Yes, we did. 430:24 Q. And that was an opioid case, 430:25 wasn't it?	
431:2 - 431:8	Mapes, Michael 07-12-2019 (00:00:15)	vMapes6ALL.186
	431:2 THE WITNESS: It was. 431:3 QUESTIONS BY MR. LANIER: 431:4 Q. So this idea that, ah, geez, we 431:5 couldn't know, I mean, you gave them a case 431:6 that said since 1943 the US Supreme Court 431:7 said that you should be holding these things, 431:8 right?	
431:11 - 431:12	Mapes, Michael 07-12-2019 (00:00:03)	vMapes6ALL.187
	431:11 THE WITNESS: Yes, the Supreme 431:12 Court said that you should have known.	
433:21 - 434:1	Mapes, Michael 07-12-2019 (00:00:15)	vMapes6ALL.188
	433:21 Q. So when a company sees a 433:22 suspicious order, the company's got to make 433:23 this decision: Do we sell it and make our 433:24 money, or do we hold it and investigate it? 433:25 That's the company's decision, 434:1 right?	MAPES32.27
434:3 - 434:3	Mapes, Michael 07-12-2019 (00:00:00)	vMapes6ALL.189
	434:3 THE WITNESS: It is.	
435:16 - 436:16	Mapes, Michael 07-12-2019 (00:01:09)	vMapes6ALL.190
	435:16 Q. "All registrants are required 435:17 to maintain effective control against 435:18 diversion." I'm going to put your answers in	

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	435:19 blue.	
	435:20 Do you agree or disagree?	
	435:21 A. Agree.	
	435:22 Q. And so this is blue for	
	435:23 Mr. Mapes.	
	435:24 "The registrant is required to	
	435:25 report a suspicious order to the DEA."	
	436:1 Do you agree?	
	436:2 A. Yes.	
	436:3 Q. "The registrant is required to	
	436:4 maintain a system to detect suspicious	
	436:5 orders."	
	436:6 Do you agree with that part?	
	436:7 A. Yes.	
	436:8 Q. And "It's a business decision,	
	436:9 but they must identify suspicious orders."	
	436:10 Do you agree?	
	436:11 A. Yes.	
	436:12 Q. And "They should not ship	
	436:13 suspicious orders without full due diligence	
	436:14 that resolves their suspicions."	
	436:15 Do you agree?	
	436:16 A. I agree.	
443:17 - 444:1	Mapes, Michael 07-12-2019 (00:00:28)	vMapes6ALL.191
	443:17 Q. Now, "if the companies	MAPES32.24
	443:18 are asserting a roadblock," I asked	
	443:19 Mr. Rannazzisi in his deposition, "that the	
	443:20 DEA was part of the problem, that you didn't	
	443:21 do your job right or that Joe Ran didn't do	
	443:22 his job right or the others," Joe Ran	
	443:23 disagreed and said the DEA tried to stop	
	443:24 diversion and to clean up the supply chain.	
	443:25 Do you think that the DEA was	
	444:1 the problem?	
444:11 - 444:13	Mapes, Michael 07-12-2019 (00:00:05)	vMapes6ALL.192
	444:11 THE WITNESS: I believe the DEA	
	444:12 worked within the resources they had	
	444:13 to address the problem.	
456:19 - 456:23	Mapes, Michael 07-12-2019 (00:00:04)	vMapes6ALL.193
	456:19 (Mapes Exhibit 31 marked for	P82.1

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	456:20 identification.)	
	456:21 QUESTIONS BY MR. LANIER:	
	456:22 Q. Well, let me give it to you.	
	456:23 We'll mark it as Exhibit Number 31.	clear
467:8 - 467:19	Mapes, Michael 07-12-2019 (00:00:24)	vMapes6ALL.194
	467:8 Q. And did the DEA ever tell the	
	467:9 companies, "Oh, go ahead, just ship those	
	467:10 suspicious orders. It's following the law	
	467:11 when you ship a suspicious order. You don't	
	467:12 need to do due diligence. You don't need to	
	467:13 check into it. You don't -- yeah, it's	
	467:14 excessive, yeah, it's suspicious, yeah, it's	
	467:15 probably going to be diverted, but just ship	
	467:16 it anyway and make the money"?	
	467:17 Did y'all ever tell them to do	
	467:18 that?	
	467:19 A. I never did.	
468:11 - 468:14	Mapes, Michael 07-12-2019 (00:00:08)	vMapes6ALL.195
	468:11 Q. It's the company's decision	
	468:12 whether or not they want to ship a suspicious	
	468:13 order or hold it, isn't it?	
	468:14 A. It is.	
510:22 - 511:3	Mapes, Michael 07-12-2019 (00:00:25)	vMapes6ALL.196
	510:22 Q. And Mr. Lanier showed you a	P44542.1
	510:23 privilege log marked as Exhibit 20 and asked	
	510:24 you about the fact that several entries here	
	510:25 indicated that you were involved in these.	
	511:1 Do you recall looking at this	
	511:2 document, Exhibit Number 20?	
	511:3 A. Yes.	
512:6 - 512:12	Mapes, Michael 07-12-2019 (00:00:12)	vMapes6ALL.197
	512:6 Q. He didn't tell you that,	
	512:7 in fact, every single one of the documents on	
	512:8 this list that we're looking at here, which	
	512:9 comprises two pages, had, in fact, been	
	512:10 produced by AmerisourceBergen. He didn't	
	512:11 tell you that, right?	
	512:12 A. That's correct.	clear
512:14 - 512:17	Mapes, Michael 07-12-2019 (00:00:14)	vMapes6ALL.198
	512:14 Mr. Mapes, does DEA have ethics	

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512:23 - 513:3	<p>512:15 rules in place about post-DEA employment for</p> <p>512:16 DEA employees like yourself who leave or</p> <p>512:17 retire?</p> <p>Mapes, Michael 07-12-2019 (00:00:09)</p> <p>512:23 THE WITNESS: Yes, there are.</p> <p>512:24 QUESTIONS BY MS. MCCLURE:</p> <p>512:25 Q. And you followed those</p> <p>513:1 post-employment ethics rules?</p> <p>513:2 A. Yes.</p> <p>513:3 Q. Thank you.</p>	vMapes6ALL.199
514:12 - 514:18	<p>Mapes, Michael 07-12-2019 (00:00:16)</p> <p>514:12 Q. And do you think that there's</p> <p>514:13 anything wrong that you've done in consulting</p> <p>514:14 for various industry participants to help</p> <p>514:15 them be compliant with the Controlled</p> <p>514:16 Substances Act and DEA policies and</p> <p>514:17 procedures in your post-DEA work?</p> <p>514:18 A. No.</p>	vMapes6ALL.200
518:7 - 519:3	<p>Mapes, Michael 07-12-2019 (00:00:57)</p> <p>518:7 Q. And so you testified in a</p> <p>518:8 lawsuit in West Virginia in 2016, correct?</p> <p>518:9 A. Yes.</p> <p>518:10 Q. And in that you testified that</p> <p>518:11 the shift from ship and then report to</p> <p>518:12 instead halt and investigate was a gradual</p> <p>518:13 change, right?</p> <p>518:14 A. Yes, it was.</p> <p>518:15 Q. And that the regulations did</p> <p>518:16 not change, but the DEA's interpretation of</p> <p>518:17 them did, right?</p> <p>518:18 A. Yes.</p> <p>518:19 Q. And that companies were</p> <p>518:20 responding to DEA's changed interpretation</p> <p>518:21 and then coming up with programs to handle</p> <p>518:22 that new different expectation, right?</p> <p>518:23 A. That's correct.</p> <p>518:24 Q. And there was not a date</p> <p>518:25 certain by which companies were expected or</p> <p>519:1 anticipated to implement the changes to DEA's</p> <p>519:2 new interpretation of 1301.74(b)?</p>	vMapes6ALL.201

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520:14 - 520:20	<p>519:3 A. That's correct.</p> <p>Mapes, Michael 07-12-2019 (00:00:13)</p> <p>520:14 Q. And so that was -- the</p> <p>520:15 submission of excessive purchase reports was</p> <p>520:16 considered, in your experience at DEA, to be</p> <p>520:17 in compliance with the Controlled Substances</p> <p>520:18 Act for the period of time that those reports</p> <p>520:19 were accepted, correct?</p> <p>520:20 A. Yes.</p>	vMapes6ALL.202
520:22 - 521:9	<p>Mapes, Michael 07-12-2019 (00:00:26)</p> <p>520:22 And in addition, I just asked</p> <p>520:23 you a question as to whether they were in</p> <p>520:24 compliance with the Controlled Substances</p> <p>520:25 Act.</p> <p>521:1 They were also then in</p> <p>521:2 compliance -- I just asked you a question</p> <p>521:3 that stated that they were in compliance --</p> <p>521:4 the acceptance of the excessive purchase</p> <p>521:5 reports is being compliant -- was compliant</p> <p>521:6 with the Controlled Substances Act.</p> <p>521:7 They were also compliant with</p> <p>521:8 the regulations that underscored and</p> <p>521:9 implemented that act, correct?</p>	vMapes6ALL.203
521:15 - 521:18	<p>Mapes, Michael 07-12-2019 (00:00:08)</p> <p>521:15 THE WITNESS: Personally we</p> <p>521:16 accepted them, the excessive purchase</p> <p>521:17 reports, as compliant for the</p> <p>521:18 suspicious order monitoring, yes.</p>	vMapes6ALL.204

Defendants' Affirmatives = 00:19:38

Plaintiffs' Counters = 00:13:05

Plaintiffs' Completeness = 00:21:44

Defendants' Reply = 00:05:02

Total Time = 00:59:29**Documents Shown**

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